

Before the State of South Carolina
Department of Insurance

RECEIVED
GENERAL COUNSEL

17 MAR 22 2001

In the matter of:)
Kelly K. Blackwell,)
)
4681 Wild Iris Drive, Unit 102)
)
Myrtle Beach, South Carolina 29577.)
_____)

SCDI File Number 107111-
STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

Consent Order
Imposing Administrative Penalty
And Reinstating License

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Kelly M. Blackwell, a former South Carolina resident insurance agent.

Upon review of this matter, I hereby find as fact, that Blackwell failed to timely pay the year 1999-2000 continuing education fee (the CE fee) required by S.C. Code Ann. § 38-43-106(D) (Supp.2000) and Reg. 69-50 § VIII. Blackwell acknowledges that she did not pay the required fee on or before the May 1, 2000 deadline. However, Blackwell contends her failure to pay the fee resulted from inadvertence and oversight and not from any intent to avoid the requirements of the law. She further contends that she attempted to pay the fee before the Department initiated any administrative action against her. Nevertheless, Blackwell's failure to meet the administrative deadline has led to the cancellation of her license to transact the business of insurance as an agent in South Carolina.

Since then, Blackwell has expressed a desire to reinstate her license. She and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision. The consensual recommendation was that the Department would reinstate Blackwell's resident insurance agent license upon proof of her payment of the CE fee to the CE Administrator and an administrative penalty in the total amount of \$250 to the Department.

Section 38-43-106(D) of the South Carolina Code makes insurance agents "responsible for payment to the continuing education administrator of a reasonable annual fee for operation of the continuing education program." Section § 38-43-130 states, in pertinent part, that the Director of Insurance may revoke an agent's license "when it appears that an agent...has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State."

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Blackwell has not complied with S.C. Code Ann. § 38-43-106(D) and 25A S.C. Code Ann. Reg. 69-50 §VIII (Supp. 2000). As a result, the administrative action previously taken against her resident insurance agent license was proper. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2000), and after carefully considering the recommendation of the parties, I hereby impose against Blackwell an administrative

KB Kelly K. Blackwell

penalty in the total amount of \$250. If Blackwell pays that penalty within ten days of the date of my signature upon this consent order, and if she also provides proof of her having paid the CE fee, the Department will reinstate her resident insurance agent license.

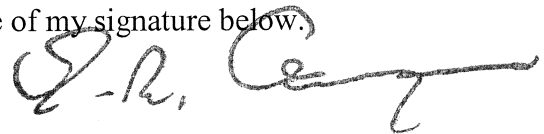
The parties have reached this agreement in consideration of the Department having never taken any administrative disciplinary action against Blackwell before, of Blackwell's good faith attempt to comply with the CE fee payment provisions after the due date and before regulatory notice of noncompliance, and of her assurance that in the future she will comply with the state's insurance laws, particularly that of timely paying the CE fee. The parties expressly agree and understand Blackwell's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By her signature upon this consent order, Blackwell acknowledges that she understands that this administrative order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000). Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (Supp. 2000), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that Kelly K. Blackwell shall, within ten days of the date of my signature on this consent order, pay to the Department an administrative penalty in the total amount of \$250.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Blackwell's licensing file.

This consent order becomes effective as of the date of my signature below.



Ernst N. Csiszar
Director

March 22, 2001, at
Columbia, South Carolina

 Kelly K. Blackwell

I CONSENT:

Kelly K. Blackwell

Kelly K. Blackwell

4681 Wild Iris Drive, Unit 102

Myrtle Beach , South Carolina 29577

Dated this 21 day of March, 2001